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April 6, 2005

OF COUNSEL
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Chairman Roger Rodoni and Board Members
Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, California 95501

Re: Humboldt County Housing Element

Dear Chairman Rodoni:

We represent HELP (Humboldt Economic and Land Plan), a group of private citizens who seek to reach a balance between economic vitality and growth on the one hand, and protection of natural resources on the other. As you know, housing in Humboldt County is rapidly becoming less and less affordable. Further, there is a shortage of all types of housing in the County, including affordable housing. One way to ensure the County grows responsibly and has adequate housing of all types is to have an accurate Housing Element.

The purpose of this letter is twofold. First, we wish to inform the Board that the Housing Element Update it adopted on November 30, 2004, is insufficient under former and current State housing laws. Second, we request that the Board immediately direct staff to update the Housing Element as suggested in this letter to bring the County's Housing Element into compliance with current laws.

Element Is Insufficient Under Former Housing Laws

Effective January 1, 2003, Government Code¹ section 65583(a)(3) states that a housing element shall contain, "An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites." Even in its amended or updated state, the County's Housing Element does not comply with Section 65583(a)(3) as it existed in 2003 and 2004 when the Board adopted the new Housing Element.

¹ All statutory references are to the California Government Code unless otherwise specified.

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Table 19 of the County's Housing Element identifies the following 10 categories: area, zoning, units per acre allowed, total acres, maximum development potential allowed, minimum development potential required, number of properties, average parcel size, minimum acreage, and maximum acreage. It also lists the various community plan areas in the County and up to three designations of residential zoning in each area. The table does not identify specific sites or vacant sites by assessor's parcel number, which may be available for development. Instead, the table appears to group sites based on their zoning and then provides a maximum and minimum number of units within certain zones and areas, which may be allowed for development. Notably, different zones are discussed in different areas. This does not satisfy the provisions of Section 65583 since no sites, vacant or otherwise are specifically identified.

We note that a land inventory chart was made available by the County on its web site. This inventory chart is neither accurate nor part of the County's current Housing Element. With regard to being part of the Housing Element, the inventory list is not specifically mentioned in the Housing Element, and does not appear to be part of the adopted Housing Element. With respect to accuracy, while the chart appears to list sites for development by assessor's parcel numbers, we have confirmed that many of the sites listed have either already been developed, can not be developed for various reasons, or have no public facilities available to them.

Because the site inventory is inadequate, the analysis of the relationship of zoning and public facilities and services to specific sites in the Housing Element is also deficient. Without the identification of individual developable sites, there can be no analysis of the public services and facilities available to each site. Even if one were to argue this is not true, the basic factual information provided in Section 2320 entitled "Public Services" of the Housing Element is incorrect. In particular, we have been informed that the Eureka Community Planning Area, with the exception of the Myrtle Town area, will no longer be permitted to obtain hook-ups due to lack of sewer capacity.

Based on the foregoing deficiencies in the land inventory and public services and facilities analyses, the Element does not comply with the plain language of Section 65583(a)(3) as effective in 2004.

Element Is Insufficient Under Current Housing Laws Effective January 1, 2005.

Section 65583(c)(1) was amended effective January 1, 2005 to highlight that the most significant aspect of the inventory requirement is to provide the basis for determining whether the County is complying with the obligation to meet its share of the regional housing needs. Also on January 1, 2005, Assembly Bill No. 2348, which amended the Government Code to add a new Section 65583.2, became effective. This new Section 65583.2 is entitled,

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"Residential land inventory; definitions; inventory elements; suitability for regional housing needs; densities."

Both Sections 65583(c)(1) and 65583.2(a) require that the County's inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the County's fair share of the regional housing needs for all income levels. Section 65583.2 goes further, however, in defining what that means. "Land suitable for residential development" includes all of the following:

1. Vacant sites zoned for residential use;
2. Vacant sites zoned for nonresidential use that allows residential development;
3. Residentially zoned sites that are capable of being developed at a higher density; and
4. Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

While all four types of land may be included in the inventory, if the County cannot accommodate its share of the regional housing need for each income level by use of sites that do not require rezoning, the County must identify actions that will be taken to make sites available to accommodate this housing need.

Once suitable sites have been identified, the inventory of land must include certain site-specific information:

1. A listing of properties by parcel number or other unique reference;
2. The size of each property and the general plan designation and zoning of each property;
3. For nonvacant sites, a description of the existing use of each property; and
4. A map that shows the location of the sites included in the inventory.

As noted above, the County's Housing Element does not contain this information.

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The inventory must also include some information that is not required to be site-specific:

1. A general description of any environmental constraints to the development of housing within the jurisdiction;
2. A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities; and
3. Sites identified as available for housing for above-moderate income households in areas not served by public sewer systems.

After review of the Housing Element, we found that the Section entitled, "Local Governmental Restraints" did not address any specific environmental concerns, which would constrain development of housing in the County. However, it appears that an analysis of earthquakes, lack of water, any endangered species, wetlands, and timber issues, among others, should be discussed.

From the total inventory the County must determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period. To accomplish this the development density for each site must be determined. If County regulation requires the development of a site at a minimum density, that minimum density sets the number of units recognized for that site to accommodate regional housing needs. If there are no set minimum densities, then the County must demonstrate how the number of units determined for that site will be accommodated. Since no accurate, site-specific inventory has been provided, it is impossible to ascertain development density for each site.

In addition to setting the density for each site the County must designate what income level (very low, lower, moderate or above moderate) can be accommodated at each site. This requirement indicates there must be some understanding of the costs of development of each site. This is not accomplished in the current Housing Element because there are no specific sites identified in the Housing Element.

Conclusion

The County's recently adopted Housing Element Update does not provide the basic inventory information required by Sections 66583 or 65583.2 because (1) it does not specify sites zoned for residential use, sites that are or may be made available for residential development, (2) it does not contain an accurate and sufficient inventory of land, (3) it does not

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identify which sites in the inventory can accommodate the county's portion of its share of the regional housing needs by income during the planning period; (4) it does not provide accurate or sufficient information regarding public services and facilities in relation to specific sites and their zoning districts; and (5) it does not adequately discuss environmental constraints on development.

Further, while the County has added policies to its Housing Element to provide for an accurate land inventory (see Section 2320 of the Technical Background Study for the 2003 Housing Element as amended November 30, 2003), there is no indication of a time frame for such an inventory to be completed, and we found nothing in the Housing Element supported by evidence showing that its fair share of regional housing needs will be met in this planning period.

Humboldt County suffers from a severe shortage of adequate housing of all types, but especially affordable housing. Enacting provisions for adequate housing in the unincorporated area is a key obligation of the County and is the primary reason for the obligations imposed by State law for the Housing Element. Because the County's Housing Element is not in compliance with State law, either as it existed at the time the Element was adopted or as the laws now read, it is impossible to determine how the County will make up the existing housing shortage and provide for its share of the required housing need during the current planning period. Therefore, we must insist that the County take immediate action to address its failure to comply with State law.

Specifically, we request:

1. Immediate commencement of an update to the County's Housing Element;
2. Immediate initiation of a project to develop an inventory of land suitable for residential development that complies with State law;
3. Provide the following documents to us in accordance with the California Public Records Act:
 - A current, final and complete copy of the County's Housing Element;
 - A current, final and complete copy of the County's land inventory, if one exists;
 - An analysis showing that the County's portion of fair share housing needs can be met in accordance with the County's current land inventory;

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- The annual growth rate used and the methodology employed to arrive at that rate; and
- The projected number of Dwelling Units needed during the life of the Housing Element and the methodology used to arrive at that number of units.

We appreciate your attention to these pertinent issues, and look forward to a prompt response.

Very truly yours,

SIGNATURE ON ORIGINAL

Robert K. Best

cc: Tamora Falor, County Counsel
Lora Canzoneri, Clerk of the Board
Loretta A. Nickolaus, County Administrative Officer
Kirk A. Girard, Community Development Director
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